

JUNE 14, 2007

ENERGY & ENVIRONMENT COMMITTEE  
REPORT NO. 10

ALL MEMBERS PRESENT.

1.       RESOLVED, the following items are hereby received and filed:
- a.       COMM. 11E-24 (2007)  
          **COUNTY EXECUTIVE:** Erie County Sewer District Nos. 1, 2, 4, 5 & 6 - Engineer Term Agreement - Work Order: GPI-10 (4-0)

b.       COMM. 11E-25 (2007)  
          **COUNTY EXECUTIVE:** DEP - Sewerage Management - Engineer Term Agreement - Work Order: MPI-6 (4-0)

c.       COMM. 11M-1 (2007)  
          **ECWA:** News Release - ECWA Receives High Marks from Independent Audit (4-0)

d.       COMM. 11M-5 (2007)  
          **ECWA:** Comprehensive Annual Financial Report for Year Ended 12/31/06 (4-0)
2.       COMM. 2E-11 (a) (2007)  
          **COUNTY EXECUTIVE**

RESOLUTION NO. \_\_\_\_\_

RESOLUTION DATED \_\_\_\_\_, 2007

A RESOLUTION RATIFYING PREVIOUS APPROVAL OF (1) THE ESTABLISHMENT OF ERIE COUNTY SEWER DISTRICT NO. 8 IN THE COUNTY OF ERIE, NEW YORK AND (2) AN APPLICATION TO THE STATE COMPTROLLER FOR CONSENT FOR EXPENDITURE OF FUNDS FOR SAID ESTABLISHMENT; AND MAKING CERTAIN FURTHER FINDINGS AND DETERMINATIONS RELATIVE THERETO.

(Introduced) \_\_\_\_\_, 2007.  
(Adopted) \_\_\_\_\_, 2007.

WHEREAS, a petition has been presented and executed on behalf of the Village of East Aurora by the Mayor of said village requesting that all areas within such village be established as a County sewer district; and

WHEREAS, a petition has been presented and executed on behalf of the Town of Aurora by the Supervisor of said town requesting that certain areas within such town be established as a County sewer district; and

WHEREAS, the County Legislature of the County of Erie, New York, has heretofore duly directed that there be prepared a map, plan, report and estimate of cost by the County Engineers (Erie County Department of Environment and Planning) relating to a proposed establishment of Erie County Sewer District No. 8 (the “Proposed Sewer District”) which map, plan, report and estimate of cost have been approved by the Erie County Department of Environment and Planning on June 15, 2005 and filed with the County Legislature pursuant to Section 254 of the County Law; and

WHEREAS, said map, plan, report and estimate of cost contains (i) a description of the proposed boundaries of the area which the Department in its judgment considers will be benefited by the Proposed Sewer District, (ii) a description of the areas of the Proposed Sewer District to permit definite and conclusive identification of all parcels of property included therein, (iii) the proposed location of facilities of the Proposed Sewer District, and (iv) estimates of the cost of construction, reconstruction or procurement and installation of facilities, all as more fully described in the map, plan, report and estimate of cost hereinbefore referred to; and

WHEREAS, the maximum estimated cost of the establishment of the Proposed Sewer District is \$4,000,000, to finance the costs of the acquisition of wastewater facilities and the improvements included with the establishment of the Proposed Sewer District, to be assessed against a benefited area which consists of the entire area of said Proposed Sewer District; and

WHEREAS, the consent of the State Comptroller must be obtained prior to the establishment of the Proposed Sewer District if such expenditure is to be financed by the issuance of bonds or notes of the County therefor, and the cost thereof to the Typical Property (as defined in the County Law), which is \$480.80 for typical property located within the Village of East Aurora and \$582.77 for typical property located within the Town of Aurora, is above the Average Estimated Cost of \$280.00 to the Typical Properties for similar types of expenditures, as computed by the State Comptroller, in accordance with the provisions of Section 254 of the County Law; and

WHEREAS, said County Legislature duly adopted Resolution No. 178-2005 on July 7, 2005, calling a meeting of the Legislature for the purpose of holding a public hearing on the aforesaid establishment of Erie County Sewer District No. 8, in accordance with the aforesaid map, plan and report

and said public hearing was duly held at 92 Franklin Street, 4<sup>th</sup> Floor, Buffalo, New York, in said County, on August 18, 2005; and

WHEREAS, notice of said public hearing was duly published in the manner provided by law and proof thereof was submitted to said County Legislature; and

WHEREAS, said County Legislature after duly considering the evidence given at such public hearing duly adopted Resolution No. 293 on the 10<sup>th</sup> day of November, 2005 authorizing the establishment of Sewer District No. 8 and directing that an Application be prepared and forwarded by the County Executive to the State Comptroller to obtain his consent to the total expenditure authorized by said resolution; and

WHEREAS, said Application has been received by the State Comptroller and after review of said Application the State Comptroller’s staff has requested that the County Legislature make certain further findings and determinations,

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. Upon the evidence given at the aforesaid public hearing, and after reviewing said Application as prepared by the Department of Environment and Planning, it is hereby found and determined that (i) the authorization for said establishment of said Sewer District No. 8 in the County of Erie, New York at a maximum estimated cost of \$4,000,000 and all findings and determinations made pursuant to Resolution 293 duly adopted by said County Legislature on the 10<sup>th</sup> day of November, 2005 are hereby ratified, (ii) that said Application to the State Comptroller was prepared at the direction of said County Legislature and that said County Legislature believes the contents of the Application to be accurate, and (iii) that the expenditure for which consent is sought is in the public interest and will not constitute an undue burden on the property which will bear the cost thereof.

Section 2. This resolution shall take effect immediately.  
(4-0)

3. COMM. 2E-11 (b) (2007)  
**COUNTY EXECUTIVE**  
RESOLUTION NO. \_\_-2007

BOND RESOLUTION DATED \_\_\_\_\_, 2007

BOND RESOLUTION OF THE COUNTY OF ERIE, NEW YORK, ADOPTED \_\_\_\_\_,  
2007 AMENDING THE BOND RESOLUTION ADOPTED DECEMBER 18, 1997.

(Introduced) \_\_\_\_\_, 2007  
(Adopted) \_\_\_\_\_, 2007

Recitals

WHEREAS, The County Legislature of the County of Erie, New York, has heretofore duly directed that there be prepared a report and estimate of cost by the County Engineers (Erie County Department of Environment and Planning) relating to a proposed modification of plans for the increase and improvement of the facilities for County Sewer District No. 5 authorized by the County Legislature, which report and estimate of cost have been filed with the County Legislature pursuant to Section 253-b of the County Law; and

WHEREAS, such report and estimate of cost have been approved by the Erie County Sewer Agency pursuant to a written report dated April 16, 2007, which has also been filed with said County Legislature; and

WHEREAS, said report and estimate of cost describe a proposed modification of plans for such increase and improvement of the facilities of Erie County Sewer District No. 5 in said County, consisting of the replacement of existing sanitary sewers throughout the District as and where required, all as more fully described in the report and estimate of cost herein referred to; and

WHEREAS, the maximum estimated cost of the aforesaid design, engineering, and construction of the facilities of said Sewer District is \$1,860,000, to be apportioned among real properties in the District in accordance with (i) their respective proportionate shares of sewered units in the District, (ii) applicable flat charges, and (iii) assessments against a benefited area which consists of the entire area of said Sewer District No. 5; and

WHEREAS, said County Legislature duly adopted Resolution No. 137 on the 17<sup>th</sup> day of May, 2007, calling a meeting of the County Legislature for the purpose of holding a public hearing to consider said modification of plans for such increase and improvement of facilities in accordance with the provisions of Section 253-b of the County Law; and

WHEREAS, said public hearing was duly held at 92 Franklin Street, 4th Floor, Buffalo, New York, in said County, on the 8<sup>th</sup> day of June, 2007, at 1:30 o’clock P.M., Prevailing Time; and

WHEREAS, notice of said public hearing was duly published in substantially the manner provided by law and proof thereof was submitted to said County Legislature; and

WHEREAS, said County Legislature had duly considered the evidence given at such public hearing;

WHEREAS, it is now necessary to amend the Bond Resolution adopted by the County Legislature on December 18, 1997 to reflect the modification of plans for the increase and improvement of facilities for Erie County Sewer District No. 5;

NOW, THEREFORE, BE IT

RESOLVED BY THE LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK (by the favorable vote of not less than two-thirds of all members of said Legislature) AS FOLLOWS:

**Section (A).** Resolution No. 470-1997 of said County duly adopted by the Legislature on December 18, 1997, entitled:

“BOND RESOLUTION AUTHORIZING THE ISSUANCE OF \$2,800,000 BONDS OF THE COUNTY OF ERIE, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF AN INCREASE AND IMPROVEMENT OF FACILITIES FOR ERIE COUNTY SEWER DISTRICT NO. 5; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$2,800,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF \$2,800,000 BONDS HEREIN AUTHORIZED; PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AND PROVIDING FOR REIMBURSEMENT BY ERIE COUNTY SEWER DISTRICT NO. 5 TO SAID COUNTY”

is hereby amended to read as follows:

BOND RESOLUTION DATED \_\_\_\_\_, 2007, AMENDING THE BOND RESOLUTION ADOPTED DECEMBER 18, 1997.

BOND RESOLUTION AUTHORIZING THE ISSUANCE OF \$2,800,000 BONDS OF THE COUNTY OF ERIE, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF AN INCREASE AND IMPROVEMENT OF THE FACILITIES OF ERIE COUNTY SEWER DISTRICT NO. 5; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$2,800,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF \$2,800,000 BONDS HEREIN AUTHORIZED; PROVIDING FOR A TAX TO PA Y THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AND PROVIDING FOR REIMBURSEMENT BY ERIE COUNTY SEWER DISTRICT NO. 5 TO SAID COUNTY.

RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK (by the affirmative vote of not less than two-thirds of the voting strength of said Legislature), AS FOLLOWS:

Section 1. Pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York, as amended (the “Law”), and to the provisions of other laws applicable thereto, \$2,800,000 bonds of the County, or so much thereof as may be necessary, are hereby authorized to be issued to finance the cost of an increase and improvement of facilities for Erie County Sewer District No. 5, all as more fully described in the report and estimate of cost accepted and adopted by the Board of Managers of said District on February 11, 1997, and filed with the County Legislature pursuant to Section 268 of the County Law and as modified by the Board of Managers of said District on April 16, 2007, and filed with the County Legislature pursuant to Section 253-b of the County Law. The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and to the financing thereof, is \$2,800,000. The plan of financing includes the issuance of \$2,800,000 bonds herein authorized and any bond anticipation notes issued in anticipation of the sale of such bonds, and the levy of a tax to pay the principal of and interest on said bonds and notes, the said principal and interest to be reimbursed to the County to be apportioned among real properties in the District in accordance with (i) their respective proportionate shares of sewer units in the District, (ii) applicable flat charges, and (iii) assessments against a benefited area which consists of the entire area of said Sewer District No. 5.

Section 2. The period of probable usefulness for the specific object or purpose for which said \$2,800,000 bonds herein authorized to be issued, within the limitations of Section 11.00 a. 4. of the Law, is forty (40) years.

Section 3. Current funds are not required to be provided as a down payment prior to the issuance of the \$2,800,000 bonds authorized herein, or any bond anticipation notes issued in anticipation thereof, pursuant to Section 107.00 d. 3. of said Law.

Section 4. The County intends to finance, and the Comptroller of the County is hereby authorized to advance such amounts as are necessary to pay the costs of the object or purpose described in Section 1 hereof prior to the issuance of the bonds or bond anticipation notes authorized out of any available funds of the County, on an interim basis, which amounts are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the County, pursuant to this Resolution, in the maximum amount of bonds herein authorized. This Resolution is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 5. Subject to the provisions of this Resolution and of the Law, and pursuant to the provisions of §21.00 relative to substantially level or declining annual debt service, §30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals thereof, and of §§50.00, 56.00 to 60.00 and 168.00 of said Law, the powers and duties of the County Legislature relative to authorizing the issuance of any notes in anticipation of the sale of the respective amounts of bonds herein authorized, or the renewals thereof, relative to providing for substantially level or declining annual debt service, relative to prescribing the terms, form and contents and as to the sale and issuance of the respective amounts of

bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Comptroller of the County, as the chief fiscal officer of the County.

Section 6. Each of the bonds authorized by this Resolution and any bond anticipation notes issued in anticipation of the sale thereof shall contain the recital of validity prescribed by Section 52.00 of said Local Finance Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the County of Erie, payable as to both principal and interest by general tax upon all the taxable real property within the County without limitation as to rate or amount. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and provision shall be made annually in the budgets of the County by appropriation for (a) the amortization and redemption of the notes and bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 7. The validity of the bonds authorized by this Resolution and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the County is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of this Resolution or a summary hereof, are not substantially complied with, and an action, suit or proceeding contesting such validity, is commenced within twenty days after the date of such publication, or
- (c) such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This Resolution shall take effect immediately upon approval by the County Executive.

**Section (B).** The amendment of the bond resolution set forth in Section A of this Resolution shall in no way affect the validity of the liabilities incurred, obligations issued, or action taken pursuant to said bond resolution, and all such liabilities incurred, obligations issued, or action taken shall be deemed to have been incurred, issued or taken pursuant to said bond resolution, as so amended.  
(4-0)

4. COMM. 2E-11 (c) (2007)  
**COUNTY EXECUTIVE**  
RESOLUTION NO. \_\_\_\_\_  
  
RESOLUTION DATED \_\_\_\_\_, 2007

A RESOLUTION APPROVING A MODIFICATION OF PLANS FOR THE INCREASE AND IMPROVEMENT OF FACILITIES FOR ERIE COUNTY SEWER DISTRICT NO. 5 IN THE COUNTY OF ERIE, NEW YORK

(Introduced) \_\_\_\_\_, 2007.  
  
(Adopted) \_\_\_\_\_, 2007.

WHEREAS, The County Legislature of the County of Erie, New York, has heretofore duly directed that there be prepared a report and estimate of cost by the County Engineers (Erie County Department of Environment and Planning) relating to a proposed modification of plans for the increase and improvement of the facilities for County Sewer District No. 5 authorized by the County Legislature, which report and estimate of cost have been filed with the County Legislature pursuant to Section 253-b of the County Law; and

WHEREAS, such report and estimate of cost have been approved by the Erie County Sewer Agency pursuant to a written report, which has also been filed with said County Legislature; and

WHEREAS, said report and estimate of cost describe a proposed modification of plans for such increase and improvement of the facilities of Erie County Sewer District No. 5 in said County, consisting of the replacement of existing sanitary sewers throughout the District as and where required, all as more fully described in the report and estimate of cost herein referred to; and

WHEREAS, the maximum estimated cost of the aforesaid design, engineering, and construction of the facilities of said Sewer District is \$1,860,000, to be apportioned among real properties in the District in accordance with (i) their respective proportionate shares of sewerred units in the District, (ii) applicable flat charges, and (iii) assessments against a benefited area which consists of the entire area of said Sewer District No. 5; and

WHEREAS, said County Legislature duly adopted Resolution No. 137 on the 17<sup>th</sup> day of May, 2007, calling a meeting of the County Legislature for the purpose of holding a public hearing to consider said modification of plans for such increase and improvement of facilities in accordance with the provisions of Section 253-b of the County Law; and

WHEREAS, said public hearing was duly held at 92 Franklin Street, 4<sup>th</sup> Floor, Buffalo, New York, in said County, on the 8<sup>th</sup> day of June, 2007, at 1:30 o'clock P.M., Prevailing Time; and

WHEREAS, notice of said public hearing was duly published in substantially the manner provided by law and proof thereof was submitted to said County Legislature; and

WHEREAS, said County Legislature had duly considered the evidence given at such public hearing;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to modify the plans for such increase and improvement of the facilities of Erie County Sewer District No. 5 in the County of Erie, New York, all as more fully described in the preambles hereof, and such modification of plans for the increase and improvement of facilities is hereby authorized at a maximum estimated cost of \$1,860,000.

Section 2. The cost of the proposed modification expenditure is to be apportioned among real properties in the District in accordance with (i) their respective proportionate shares of sewered units in the District, (ii) applicable flat charges, and (iii) assessments against a benefited area which consists of the entire area of said Sewer District No. 5, as such formulas currently exist and as amended from time to time.

Section 3. This resolution shall take effect immediately.  
(4-0)

5. COMM. 11E-18 (2007)  
**COUNTY EXECUTIVE**

WHEREAS, the Erie County Department of Parks, Recreation and Forestry (“Parks”) has been contacted by the Niagara Region Disc Golf League (“League”) concerning the construction of an 18 hole disc golf course at Como Lake Park; and

WHEREAS, the League has constructed disc golf courses at various NYS Parks throughout Western New York; and

WHEREAS, the League proposes to construct and install an 18 hole disc golf course on 30 to 40 acres of land at Como Lake Park at its sole cost and expense of approximately \$7,200.00; and

WHEREAS, the construction is limited to digging holes for the installation of posts for disc golf baskets, tee and sponsor signs, and will not otherwise involve landscaping, removing or relocating any trees, shrubs, or other park vegetation; and

WHEREAS, use of the course will be open to any persons who wish to use it free of charge; and

WHEREAS, the Parks Department desires to enter into an agreement with the League for

construction and installation of the course; and

WHEREAS, pursuant to County Law, any gifts must be approved and accepted by the Erie County Legislature.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into an agreement with the Niagara Region Disc Golf League for the construction and installation of a public 18 hole disc golf course, at the sole cost and expense of such League at Como Lake Park on approximately 30 to 40 acres of parkland to be designated by the Commissioner of Parks, Recreation and Forestry; and be it further

RESOLVED, that such agreement shall provide that notwithstanding the construction and installation of the disc golf course by the League at its sole expense, that use of such disc golf course shall be open and free of charge to all persons; and be it further

RESOLVED, that the County Executive is authorized to accept, on behalf of the County, and its Department of Parks, Recreation and Forestry, from the Niagara Region Disc Golf League, a gift of a fully constructed and installed 18 hole disc golf course at Como Lake Park; and be it further

RESOLVED, that certified copies of this Resolution be sent to Joel A. Giambra, Erie County Executive, James A. Hartman, Director of Budget, Management and Finance, Angelo J. Sedita, Commissioner of Parks, Recreation and Forestry, Mark Poloncarz, Erie County Comptroller, and Gregory J. Dudek, Assistant County Attorney.  
(4-0)

6. COMM. 11E-20 (2007)  
**COUNTY EXECUTIVE**

WHEREAS, Erie County Sewer District No. 3 desires to rehabilitate the sanitary sewer collection system in the Village of Blasdell; and

WHEREAS, The Town of Hamburg desires to rehabilitate portions of the sanitary sewer collection system in the Town of Hamburg, including areas tributary to the Village of Blasdell; and

WHEREAS, the Town and County are desirous of realizing an economies of scale cost savings for their respective ratepayers through the integration of three separate projects into a single County administered project.

NOW, THEREFORE, BE IT

RESOLVED, that an intermunicipal agreement between the County, on behalf of Erie County Sewer District No. 3, and the Town of Hamburg for the joint completion of these sanitary sewer collection system rehabilitation projects is hereby approved; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute an intermunicipal agreement with the Town of Hamburg subject to approval as to form by the County Attorney and as to content by the Commissioner of the Department of Environment and Planning; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of this resolution to Thomas J. Whetham, P.E., Deputy Commissioner of the Department of Environment and Planning; and one certified copy to the County Executive, the Director of Budget, Management and Finance; the Erie County Comptroller, Gregory Dudek, Assistant County Attorney, and Steven Walters, Town Supervisor, Town of Hamburg.  
(4-0)

7. COMM. 11E-21 (2007)  
**COUNTY EXECUTIVE**

WHEREAS, the Erie County Department of Environment and Planning and the Buffalo Sewer Authority wish to investigate the feasibility of eliminating the Lackawanna Wastewater Treatment Plant and transmitting all flows to the Buffalo Sewer Authority; and

WHEREAS, the County has retained CRA Infrastructure and Engineering, Inc. to provide engineering services for this feasibility study; and

WHEREAS, the County has been conditionally awarded a grant by the New York Department of State for funding up to 90% of the feasibility study; and

WHEREAS, the Buffalo Sewer Authority and the County are desirous of sharing in the costs for the feasibility study that are not reimbursed by the New York Department of State.

NOW, THEREFORE, BE IT

RESOLVED, that an agreement between the County, on behalf of Erie County Sewer District No. 6, and the Buffalo Sewer Authority for the feasibility study is hereby approved; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute an agreement with the Buffalo Sewer Authority subject to approval as to form by the County Attorney and as to content by the Commissioner of the Department of Environment and Planning; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of this resolution to Thomas J. Whetham, P.E., Deputy Commissioner of the Department of Environment and Planning; and one certified copy to the County Executive, the Erie County Comptroller, the Director of Budget, Management and Finance, Gregory Dudek, Assistant County Attorney; and David P. Comerford, General Manager, Buffalo Sewer Authority.  
(4-0)

**THOMAS A. LOUGHRAN**  
**CHAIRMAN**